IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15075 of 2004

Between:

B.Srinivasulu Goud, s/o Krishnaiah Goud,
R/o Kondraopally Village, Kored Mandal, Mahaboobnagar District.

..... PETITIONER

AND

1. The Superintendent of Prohibition & Excise, Mahaboobnagar District, Mahaboobnagar.
2. The Inspector of Prohibition & Excise, (SHO), Kollapur Circle, Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the impugned proceedings of cancellation order vide R.C.No.B3/1567/2004, dt.07-07-2004 in respect of Toddy Shop Licence bearing No.3, Counter No.2, valid upto 31-3-2007 situated at Kondraopally Village, Kored Mandal, Mahaboobnagar District, as illegal, arbitrary and violative of principles of natural justice and consequently direct the 1st respondent to restore the petitioner licence in view of the acquittal in Criminal Case in C.C.No.324/2002 dt.29-6-2004.

Counsel for the Petitioner:MR.B.SAI RAM GOUD

Counsel for the Respondent Nos.1 and 2: GP FOR PROHIBITION & EXCISE

The Court made the following :

ORDER:

This writ petition is filed questioning the proceedings of the first respondent-Superintendent of Prohibition and Excise, Mahaboobnagar District, Mahaboobnagar dated 07.07.2004, whereunder the TFT licence, held by the petitioner for sale of toddy, was cancelled.

The case of the petitioner is that a false case was registered against the petitioner on 17.08.2002 alleging that the licenced premises was inspected on 17.08.2002 and one Venkataswami Goud was present in the shop of the petitioner, and on spot inspection, it was found that the toddy was adulterated with chloral hydrate. The petitioner states that no further steps were taken by the respondents and on 14.08.2004 he was served with show cause notice as well as the order of cancellation dated 07.07.2004. It is contended that since no opportunity was afforded to the petitioner to rebut the allegations, the impugned order of cancellation is arbitrary and illegal. It is also contended that the impugned order dated 07.07.2004 itself makes very clear that the alleged inspection was not at all conducted in the licenced premises of the petitioner and that Venkataswami Goud, whose name has been referred to in the impugned order, is neither nowkarnama holder nor having any authorization to conduct the sales on behalf of the petitioner.

This Court, having found prima facie case, by order dated 25.08.2004, granted interim suspension of the impugned proceedings dated 07.07.2004.

Counter-affidavit has been filed on behalf of the respondents by the Prohibition and Excise Superintendent, Mahaboobnagar stating that the name of the said Venkataswami Goud has been mentioned due to typographical mistake instead of mentioning the name of the petitioner and subsequently revised orders of cancellation were issued in the name of the petitioner vide Rc.No.B3/1567/2004 dated 20.08.2004. Even if the said plea is accepted and the absence of the name of

the petitioner is taken as a typographical mistake, it is relevant to note that nothing has been placed before this Court to show that the show cause notice dated 14.06.2004 was served on the petitioner and he was afforded an opportunity to rebut the allegations before passing the impugned order of cancellation dated 07.07.2004.

In the circumstances, I find force in the contention of the learned counsel for the petitioner that the impugned order is in violation of the principles of natural justice. Accordingly, the impugned order dated 07.07.2004 as well as the revised order dated 20-08-2004 are set aside leaving it open to the petitioner to submit his explanation to the show cause notice dated 14.06.2004 within two weeks from the date of receipt of this order. If any such explanation is received from the petitioner, the first respondent shall consider the same and pass appropriate orders in accordance with law.

The writ petition is accordingly disposed of. No costs.

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04-11-2004

Note:- CC in 3 days.

(B/O)

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To

1. The Superintendent of Prohibition & Excise, Mahaboobnagar District, Mahaboobnagar.
2. The Inspector of Prohibition & Excise, Kollapur Circle, Mahaboobnagar District.
3. Two C.Cs to the G.P for Prohibition and Excise, High Court Buildings, Hyderabad (OUT).
4. Two C.D. copies.